

**IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF MISSISSIPPI
SOUTHERN DIVISION**

**MULTIPLAN, INC., and PRIVATE
HEALTHCARE SYSTEMS, INC.**

**PLAINTIFFS/
COUNTER-DEFENDANTS**

v.

CAUSE NO. 1:14CV315-LG-RHW

**STEVEN W. HOLLAND, doing business
as Physical Therapy Clinic of Gulfport**

**DEFENDANT/
COUNTER-PLAINTIFF**

**ORDER GRANTING THE PLAINTIFFS' MOTION TO STRIKE
THE DEFENDANT'S SECOND AMENDED ANSWER,
AFFIRMATIVE DEFENSES, AND COUNTERCLAIMS**

BEFORE THE COURT is the plaintiffs' Motion to Strike [93] the defendant Steven W. Holland's Second Amended Answer, Affirmative Defenses, and Counterclaims [92]. Holland has filed a response in opposition to the Motion, and the plaintiffs have filed a reply. After reviewing the submissions of the parties, the record in this matter, and the applicable law, the Court finds that the Motion to Strike should be granted.

BACKGROUND

On October 7, 2015, Holland filed a Motion [91] seeking leave to file a second amendment to his answer and counterclaims. The proposed amended pleading was attached to the Motion as an exhibit. At the conclusion of the Motion, Holland represented that the parties had conferred regarding the Motion, and the Motion was unopposed. As a result, United States Magistrate Judge Robert H. Walker entered a Text Only Order granting the Motion to Amend on October 8, 2015.

On October 25, 2015, Holland filed a Second Amended Answer, Affirmative Defenses, and Counterclaim [92] that was different from the proposed pleading

attached to the Motion to Amend as an exhibit. The plaintiffs have filed a Motion to Strike the Second Amended Answer, Affirmative Defenses, and Counterclaim [92].

DISCUSSION

Fed. R. Civ. P. 15(a)(1) provides that a party may amend a pleading once as a matter of course as long as the time limits established by the rule have not expired. However, any subsequent amendments can only be made with the opposing party's written consent or with leave of court. Fed. R. Civ. P. 15(a)(2).

In the present case, Holland had previously amended his answer and counterclaim and the time limits established by Rule 15 had expired. As a result, he was required to obtain either leave of court or the written consent of opposing counsel before filing a second amended answer and counterclaim. Judge Walker granted Holland leave to file the unopposed amended pleading attached as an exhibit to Holland's Motion to Amend. Holland did not have the Court or opposing counsel's permission to file any pleading other than the pleading attached as an exhibit to the Motion. As a result, the Court finds that Holland's Second Amended Answer, Affirmative Defenses, and Counterclaims [92] should be stricken. He may file the pleading [91-1] that was previously approved by Judge Walker within ten days of this Order. Any additional amendments can only be filed after obtaining leave of court or the written consent of the plaintiffs.

IT IS, THEREFORE, ORDERED AND ADJUDGED that the plaintiffs' Motion to Strike [93] is **GRANTED**. Steven W. Holland's Second Amended Answer, Affirmative Defenses, and Counterclaims [92] is hereby **STRICKEN** from the

record. Holland may file the proposed amended pleading [91-1] that was previously approved by Judge Walker within ten days of this Order.

SO ORDERED AND ADJUDGED this the 5th day of February, 2016.

s/ *Louis Guirola, Jr.*

LOUIS GUIROLA, JR.
CHIEF U.S. DISTRICT JUDGE